

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST )	
FOR REVIEW BY: )	CHARGE NO.: 2009SF0467
)	EEOC NO.: 21BA82872
<b>LAKITA WARD</b> )	ALS NO.: 10-0106
)	
Petitioner. )	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman, and Charles E. Box presiding, upon Lakita Ward's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>1</sup> of Charge 2009SF0467; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, WHEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

**LACK OF SUBSTANTIAL EVIDENCE**

In support of which determination the Commission states the following findings of fact and reasons:

1. On July 22, 2008, the Petitioner filed a charge of discrimination with the Respondent, and perfected the charge on August 15, 2008. The Petitioner alleged that Neighborhood House ("Employer") had discharged her because of her race, Black, in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On January 8, 2010, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On February 6, 2010, the Petitioner timely filed this Request.
2. The Employer served the needs of children and adults. The Employer had on its site a school for the children.
3. The Employer's director, who was Caucasian, hired the Petitioner to work at the Employer's school as a child care teacher.
4. The Petitioner's daughter also attended the Employer's school.
5. One of the policies of the Employer's school was that employees were not allowed to hit a child or threaten to hit a child. This policy was based on Illinois Department of Children and Family Services ("DCFS") rules and regulations.

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<sup>1</sup> In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

6. On March 27, 2008, the Employer discharged the Petitioner based on its determination that the Petitioner had violated its policy prohibiting employees from threatening to hit a child, in this case the Petitioner's own child.
7. In her charge the Petitioner alleged she was discharged because of her race, Black. During the Respondent's investigation, the Petitioner acknowledged her awareness of the Employer's policy which prohibited threats to hit children. The Petitioner also acknowledged she had threatened to spank her child while at the Employer's school. However, the Petitioner contended that a Caucasian grandparent spanked her grandchild while on the Employer's premises, but the Caucasian grandparent was not discharged.
8. The Respondent determined that the Caucasian grandparent was not employed by the Employer.
9. In her Request, the Petitioner argues that teachers were bribed to lie about the Petitioner's situation.
10. In its Response, the Respondent asks the Commission to sustain the dismissal of the Complainant's charge for lack of substantial evidence.

## **CONCLUSION**

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, 2 (March 7, 1995).

Generally to establish a *prima facie* case of discrimination the Petitioner has to establish the following: (1) that she is a member of a protected class; (2) that she was performing her work satisfactorily; (3) that she was subject to an adverse action; (4) and that the Employer treated a similarly situated employee outside the Petitioner's protected class more favorably under similar circumstances. See Marinelli v. Human Rights Commission, 262 Ill.App.3d 247, 634 N.E.2d 463 (2<sup>nd</sup> Dist. 1994).

The Petitioner failed to establish the fourth element of the *prima facie* case because there is no evidence that a similarly situated employee outside the Petitioner's protected class was treated more favorably under similar circumstances. The Caucasian grandmother identified by the Petitioner is not similarly situated because the Caucasian grandmother was not the Employer's employee.

There is no other evidence from which a reasonable mind could conclude the Petitioner was fired for any reason other than her admitted violation of the Employer's policy which forbade employees from threatening to hit children at the school.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

**WHEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of the Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Neighborhood House, as Respondents with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

**STATE OF ILLINOIS**

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**HUMAN RIGHTS COMMISSION**

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**Entered this 8<sup>th</sup> day of September 2010**

Commissioner David Chang

Commissioner Marylee V. Freeman

Commissioner Charles E. Box